

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES OF AMERICA, ) AU:22-M -00346(1)  
)  
Plaintiff, )  
)  
v. ) AUSTIN, TEXAS  
)  
JUAN IGNACIO SORIA GAMEZ, )  
)  
Defendant. ) APRIL 12, 2022

\*\*\*\*\*  
TRANSCRIPT OF PRELIMINARY AND DETENTION HEARING  
BEFORE THE HONORABLE SUSAN HIGHTOWER  
\*\*\*\*\*

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Proceedings recorded by electronic sound recording, transcript  
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# EXAMINATION INDEX

SEAN FALLON

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1 (Proceedings began at 2:02 p.m.)

2 THE COURT: Thank you. Please be seated.

3 THE CLERK: Court is now in session for a preliminary  
4 and detention hearing, 22-MJ-346, *United States v. Juan Ignacio*  
5 *Soria Gamez*.

6 MR. MARSHALL: Mark Marshall for the United States.

7 THE COURT: Good afternoon, Mr. Marshall.

8 MR. MARSHALL: Good afternoon.

9 MS. HERRING: Charlotte Herring for Mr. Soria Gamez.

10 THE COURT: Good afternoon, Ms. Herring.

11 And I understand that, as Mr. Ferrell stated, we're  
12 proceeding with a preliminary and detention hearing today; is  
13 that correct, sir?

14 MR. MARSHALL: Yes, ma'am.

15 THE COURT: Okay. So I'll begin by reminding counsel  
16 that, as required by Rule 5(f), the United States is ordered to  
17 produce all exculpatory evidence to the defendant pursuant to  
18 *Brady v. Maryland* and its progeny. Not doing so in a timely  
19 manner may result in sanctions, including exclusion of  
20 evidence, adverse jury instructions, dismissal of charges, and  
21 contempt proceedings.

22 So, with that admonition given, Mr. Marshall, you may  
23 proceed.

24 MR. MARSHALL: I'll call Sean Fallon.

25 THE COURT: Mr. Fallon, if you'll come up here to the

1 witness stand.

2 (Witness sworn)

3 THE COURT: Thank you, Mr. Fallon. You may be  
4 seated. And, Mr. Marshall, you can proceed.

5 SEAN FALLON,

6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MARSHALL:

9 Q. Once you get set and situated there, go ahead and tell us  
10 your name and spell your name for the record, please?

11 A. My name is Detective Sean, S-e-a-n, Fallon, F-a-l-l-o-n.

12 Q. How are you employed?

13 A. I'm a member of the Cedar Park Organized Crime Unit, a  
14 case-specific task force officer with the Austin DEA and TDS.

15 Q. How long have you been with law enforcement agencies?

16 A. Since 2014.

17 Q. How long have you been working on this task force?

18 A. Approximately the past two years.

19 Q. What is the subject of this particular task force?

20 A. Specifically tasked for pharmaceutical narcotics causing  
21 overdoses in the Central Texas and Austin areas, mainly  
22 focusing on fentanyl distribution.

23 Q. In that regard, in or about 2021, did you have or receive  
24 information that Juan Soria Gamez was involved in the  
25 distribution of oxycodone -- counterfeit oxycodone?

1 A. Yes, sir, we did.

2 Q. What information did you receive?

3 A. Leander Police Department reached out to us on our about  
4 the 19th of March 2021. They were investigating a fatal  
5 overdose of an individual named Cameron Stewart. He was found  
6 deceased. At that time family members of Mr. Stewart gave the  
7 name of Juan Soria. Detective Johnson with Leander Special  
8 Investigations Unit was able to use the phone found with the  
9 deceased to find a Cash App that was titled "Trap Star."  
10 And after digging into that Snapchat, identified it fully as  
11 Juan Soria Gamez.

12 Q. So how did they tie the Cash App to this particular  
13 distribution?

14 A. All they had to go off of -- some of the information that  
15 was provided by Cash App didn't have specifics other than the  
16 name. They were able to corroborate that later with a  
17 confidential informant that reached out to them after Cameron's  
18 passing. An individual reached out who was a friend of Cameron  
19 to Leander Police Department and stated he knew an individual  
20 as Juan Soria. The same individual that was -- came back on  
21 the Cash App photographs were shown by Detective Johnson to  
22 that confidential informant who identified him as being the  
23 same person. And that informant attempted to try to conduct  
24 controlled purchases from Mr. Soria.

25 Q. Do you have any evidence that this defendant, Mr. Gamez,

1 was aware of the fact that the dope he sold Cameron caused his  
2 death?

3 A. Mr. Soria did or was seen at Cameron Stewart's funeral.  
4 Their relationship -- again, I don't want to speculate of how  
5 well they knew each other. But if he was purchasing from  
6 Mr. Soria and then going to his funeral, that would be  
7 indicative of that.

8 Q. Was there any evidence or information given by his family  
9 that indicated that Mr. Gamez was aware of that?

10 A. Shortly after the funeral, there was a post -- I was not  
11 present for the post, but it was provided by one of the family  
12 members. They showed a -- Mr. Juan posted a picture with a  
13 handful of the M30 oxycodone tablets in his hand, and it said  
14 "RIP. We lost a good one."

15 Q. Was that related to Cameron's death?

16 A. Yes, sir.

17 Q. After you got that information and you got a confidential  
18 informant that came forward, what did you do with that  
19 confidential informant?

20 A. He was signed up through the Leander Police Department,  
21 again, gave the information. At the time Mr. Gamez was only  
22 known as Juan Soria. He was fully identified later by  
23 detectives and was going to attempt to purchase the illicit  
24 oxycodone to start putting a case on Mr. Gamez.

25 Q. Was that successful?

1 A. It was not.

2 Q. Why not?

3 A. On 9-23-21 Mr. Roe was found dead of an apparent overdose  
4 at his residence at approximately 10:48 a.m. on the 23rd. One  
5 of the Cedar Park Organized Crime Unit members, Detective  
6 Castillo, arrived on-scene that day and was able to secure  
7 Mr. Roe's phone. Subsequent to that, he subpoenaed Cash App  
8 records on December 13th of '21 for the name Trap Star, which  
9 was in Mr. Roe's recent transaction history on the Cash App.

10 On February 11th of '22, the Cash App -- we actually  
11 received the return at that point, and the owner of the Cash  
12 App for Trap Star was identified as Juan Ignacio Soria Gamez.

13 Q. Same as the previous?

14 A. Same as the previous. This Snapchat return also contained  
15 his date of birth of 7-20-2002, which is the same  
16 Juan Soria Gamez we had identified, as well as showed the last  
17 four of his social security number, which we were able to  
18 confirm that with law enforcement databases as being the same  
19 Juan Soria Gamez.

20 Q. Were those particular transactions in that Cash App  
21 related to the death of the second CI?

22 A. They were. The last Cash App transaction between Trap  
23 Star, who was Mr. Gamez, and Mr. Roe was on September 23rd,  
24 2021. Approximately 10 hours and 32 minutes after that is when  
25 he was found dead. The transaction was for \$68. Tucker Roe's

1 Cash App name was Lickma. The transaction clearly was shown on  
2 the Cash App return between Trap Star and Lickma for the \$68.

3 Also in the phone it showed that conversation between  
4 Mr. Soria and Mr. Roe on Instagram when they discussed price.  
5 Mr. Soria told Mr. Roe, "Hey, Cash App me," and then sent him  
6 an address for him to meet at. After that there was no  
7 communication between the two. And then, again, 10 hours and  
8 32 minutes after this is when he was found dead.

9 Q. And was that second CI Mr. Roe?

10 A. Yes.

11 Q. Did he have a coroner's inquest or ME report?

12 A. Yes. The ME report showed fentanyl and kratom. We got  
13 that back on September -- I'm sorry. The autopsy was done  
14 September 24th of 2021. It showed the cause of death to be  
15 drug toxicity of fentanyl and kratom. Both were found in Roe's  
16 system.

17 The amount of kratom was 25 nanograms. The  
18 recommended -- which is about 2.5 grams. The recommended dose  
19 for kratom is between 2 and 12 grams, so it was well under the  
20 limit. Kratom is a lot of times used for individuals who are  
21 having opiate withdrawals to help subside those symptoms and is  
22 a natural drug. It derives from a plant in Asia.

23 Q. That's actually not a controlled substance, is it?

24 A. It is not. No, sir.

25 So the amount of fentanyl that was in his system was



1 2. -- or 4.5 nanograms, which more than lethal in an individual  
2 system. The level of kratom that was found inside the body was  
3 not a lethal amount.

4 Q. All right. Based on that, was there a conclusion as to  
5 the cause of death?

6 A. Without the fentanyl being in his system, it would --  
7 there's no reason he should have overdosed and died.

8 Q. Subsequent to that, were you able to continue your  
9 investigation of Mr. Gamez's distribution activity?

10 A. Yes. We started cultivating confidential informants that  
11 we knew had relationships with Mr. Soria or Mr. Gamez. On 2-22  
12 of '22, we were able to conduct our first controlled purchase  
13 from Mr. Soria or Mr. Gamez. At that time we only purchased  
14 two tablets for the price of \$75. We did another controlled  
15 purchase on March 1st of 2022. That purchase we purchased five  
16 tablets for \$170. Both of those lab results came back from the  
17 DPS lab and shows positive results for fentanyl being in those.

18 We continued to conduct buys with Leander Police  
19 Department, who also had a second confidential informant who  
20 was able to buy from Mr. Gamez. We conducted buys with them on  
21 2-23 of '22, which was five tablets for \$95; 3-2 of '22, which  
22 was 10 1/2 tablets for \$205; March 10th of '22, which was 10  
23 tablets for \$205; March 24th, '22 for 10 tablets for \$200; and  
24 April 6th of '22 for 10 tablets for \$190.

25 All those are still pending DPS lab analysis.

1 Q. The first two came back positive for fentanyl?

2 A. Correct.

3 Q. And, essentially, we have to wait until we get at least  
4 one or two back before we can initiate an arrest based on this  
5 kind of activity, correct?

6 A. Yes, sir.

7 Q. So after you made all those arrests and seized those  
8 particular exhibits, what action did you take?

9 A. We issued a state search warrant on Mr. Gamez's apartment,  
10 located at 149 South Bagdad Road in Leander, Texas. Myself,  
11 Leander Police Department, and DEA agents conducted that search  
12 warrant.

13 Q. Who lived at that apartment?

14 A. Mr. Gamez, another male -- I do not remember his name --  
15 and his girlfriend. Not Mr. Gamez's girlfriend, the other  
16 male's girlfriend, was also staying there to how long and we  
17 had constant 24-hour surveillance on that apartment, pole cams,  
18 it was towards the better part of -- or end of March, early  
19 April, is when they started staying there pretty frequently.

20 Q. So you had pole cams up at the end of March and end of  
21 April, correct?

22 A. Correct.

23 Q. Did you see any evidence that Mr. Gamez had a regular job?

24 A. No, we did not.

25 Q. Contrary to that, did you find evidence after the

1 execution of the warrant that his regular job was drug  
2 distribution?

3 A. Yes, sir.

4 Q. Could you go ahead and tell us what happened when you  
5 executed the warrant.

6 A. During the search warrant, all occupants were detained.  
7 We cleared the residence, conducted the search. We found  
8 six -- 17 grams of marijuana throughout the house, 5.7 grams of  
9 the blue round pills, the fentanyl-laced oxycodone,  
10 approximately 150 of the tablets. They were found hidden in a  
11 loose bedpost inside Mr. Gamez's bedroom, in his bed. And then  
12 approximately \$3,361 in small denominations, everything from  
13 one \$1 bills, \$5 bills, \$10 bills, \$20 bills, \$50 bills, and  
14 \$100 bills, which is indicative of lower-level sales and  
15 distribution. Typically, those oxycodone pills are sold in low  
16 quantity due to their being expensive, and so it's very average  
17 to have lower denominations on search warrants such as this.

18 Q. What are they going for per tablet?

19 A. It varies. The low end 8 to 10 dollars, the high end, 25  
20 to 30 dollars, depending on the quantity, how many you buy. If  
21 you're buying a couple of pills at a time, the price is always  
22 higher. If you're buying them in large amounts or large  
23 quantity, they're usually a little bit cheaper.

24 There was also 15.8 grams of psilocybin, or shrooms,  
25 found inside the apartment.

1 Q. Anything else of evidentiary value?

2 A. There was a gun with a magazine. We weren't able to  
3 recover the gun itself.

4 Q. You did recover the gun?

5 A. We did not. The -- the individual who was staying there  
6 stated he believed Mr. Gamez had taken it to his parents' house  
7 prior to that, because they were in the process of moving out  
8 of the apartment.

9 Q. Anything else?

10 A. Not on that search warrant. No, sir.

11 Q. You're still processing the other evidence from that  
12 warrant. It was just recently run, wasn't it?

13 A. Yes. It was just -- it was on the -- a couple of -- like  
14 a week ago.

15 Q. The seventh?

16 A. Yeah. On the seventh, I believe. Those are still being  
17 processed. All of that's been sent out to the DPS lab for  
18 analysis. We attempted to interview Mr. Gamez afterward. We  
19 explained to him why we were there. A lot of the information  
20 he was provided to us we knew to be untruthful.

21 Q. Let's stop there. Did you advise him of his  
22 constitutional rights before he made his statement?

23 A. Yes, sir. He was read his Miranda rights prior to us  
24 interviewing him.

25 Q. Did he agree to make a statement?

1 A. He did.

2 Q. What did he tell you in specifics?

3 A. He told us that he had sold THC products and marijuana,  
4 and the oxy on occasion, he didn't do it regularly. He told us  
5 he would "middle" the deals, facilitate people that he knows  
6 through another person who he did not identify to purchase the  
7 pills. We did confront him about the Cash App information  
8 involving Mr. Roe and how everything pointed to him being the  
9 one to distribute those fatal pills to Mr. Roe. At that point  
10 he again maintained that he was facilitating and he had no  
11 involvement in that.

12 Q. He was part of the transaction, but he facilitated and  
13 didn't actually deliver it?

14 A. According to him, yes, sir.

15 Q. Anything else he had to say at that point?

16 A. He did not. During a preliminary phone dump of  
17 Mr. Gamez's phone, it did show the address that he sent to  
18 Mr. Roe the night of the transaction. It was confirmed to be  
19 in his phone's GPS, which put him at the same location where  
20 those pills were to be delivered.

21 Q. All right. Did you seize that phone?

22 A. We did.

23 Q. Was the conversation with Mr. Gamez recorded?

24 A. Yes. All the transactions and buys that we conducted  
25 throughout the investigation were all recorded.

1 Q. Was his debrief or his statement post-Miranda recorded?

2 A. Yes, it was.

3 Q. Did you have a chance to look at the phone?

4 A. We did not. We gave it to our analyst to try to break  
5 into that. However, he did not provide us the pass code, so we  
6 weren't able to get into that phone as of right now.

7 Q. Were you able to get some Instagram and other electronic  
8 communications during the investigation?

9 A. Yes. Throughout the investigation, multiple detectives  
10 were monitoring his social media. A lot of screenshots and CI  
11 pictures and things like that were taken and recorded as  
12 evidence.

13 Q. And I'm going to show you in a moment what's been marked  
14 as Government's Exhibits 1 through 15. Do those contain the  
15 Snapchats of messages sent by this defendant, Mr. Gamez?

16 A. The Instagrams and things of that nature. Yes, sir.

17 MR. MARSHALL: May I approach?

18 THE COURT: You may.

19 Q. (BY MR. MARSHALL) I'm going to show you what's been marked  
20 as 1 through 15. You looked through them previously. Are  
21 those -- beginning with the second photo going through, are  
22 those the Snapchat and Instagrams?

23 A. Yes.

24 Q. Okay. The first photo on the left side of Government's  
25 Exhibit 1 is what?

1 A. That is the approximate 150 oxycodone tablets that we  
2 found inside of the bedpost during the search warrant.

3 Q. You've already referred to those in your testimony?

4 A. Yes.

5 Q. Okay. Let's go through these. What's depicted in the  
6 photo on Government's Exhibit 1?

7 A. This picture is Mr. Juan Soria Gamez on his balcony of his  
8 apartment -- I know that because the leasing office is across  
9 the way. That's where his balcony faced -- with a firearm in  
10 his hand that he is racking on the balcony in the evening.

11 Q. Government's Exhibit 2?

12 A. Again, his Instagram with another pistol in his hand and  
13 him throwing an obscene gesture to the camera, as well as the  
14 one on the right, another photo of a -- looks to be a Glock 43  
15 pistol that he posted on his social media as well.

16 Q. How old is Mr. Gamez?

17 A. 20 years old.

18 Q. Could he legally purchase a pistol?

19 A. No.

20 Q. It says on this what?

21 A. "big Day Tomorrow."

22 Q. And that referred to?

23 A. I'm unaware of what that --

24 Q. All right.

25 A. -- could be.

1 Q. Government's 3?

2 A. Again, same Instagram. This an Instagram live video that  
3 was screenshot-ed of an AR platform rifle that has being held  
4 by Mr. Gamez.

5 Q. Did you determine who owned that particular AR rifle?

6 A. We have not, no.

7 Q. Do you know where that is?

8 A. We do not.

9 Q. Government's Exhibit Number 4?

10 A. The same Glock 43 that was posted before. The words,  
11 "Posted up in Leander, tap, tap, tap," and then an M-circle  
12 emoji, which is indicative of the oxycodone m-boxes is what  
13 they refer to them on the street. They're a round pill with an  
14 imprint of an "M" on one side and a "30" on the other, a THC  
15 cartridge there on the bottom, and then the 9-millimeter  
16 pistol.

17 Q. And what was the rough time frame that these occurred?

18 A. These were throughout the whole investigation.  
19 Everything -- most of everything that is captured here in the  
20 evidence is from after Mr. Stewart's death at some point. So  
21 late March to now.

22 Q. So Mr. Stewart died, you tied it to this defendant, this  
23 defendant went to his funeral, and he's still doing this?

24 A. Yes.

25 Q. Now Mr. Roe dies, we start looking at him again, and all



1 this occurs after that?

2 A. Correct.

3 Q. Government's Exhibit Number 4?

4 A. Another post on Instagram. It says, "Been sleeping all  
5 day. Literally just woke up. Tap, tap, tap." Typically that  
6 refers to, if you miss some messages about people wanting to  
7 buy and you hit the tap, that means the shop is open,  
8 essentially.

9 Q. I'm sorry. That was 5.

10 A. Yes.

11 Q. Government's 6?

12 A. Another few Instagram photos of Mr. Gamez with his pistol,  
13 this unidentified male with his face covering, and then appears  
14 that he's smoking a blunt or marijuana cigar in that picture.

15 Q. Number 7?

16 A. Another post by Mr. Gamez. It states, "The feds are on my  
17 ass, but I still getting money, and that's no kizzy." This was  
18 taken after -- again, after Mr. Stewart was sound deceased up  
19 until now.

20 Q. So after two people are dead, and apparently knows they're  
21 dead, he thinks the feds are on his ass, as he says, and he's  
22 still selling?

23 A. It would appear that way. Yes, sir.

24 Q. Government's Exhibit 8?

25 A. Another Instagram live video. My "Shit finally came in."

1 Typically that is referring to whenever someone re-ups and  
2 they're back up in their narcotics, they will post that to let  
3 everybody know that they have what they're looking for.

4 THE COURT: Let me just mention, Detective Fallon, I  
5 can mostly hear you, but just make sure you're speaking up a  
6 little bit.

7 THE WITNESS: Yes, ma'am.

8 Q. (BY MR. MARSHALL) Government's 9?

9 A. "New stick for tha cribbo" with Mr. Soria or Mr. Gamez  
10 with a pistol pointed at the camera. A stick is a common  
11 street term for a firearm. So he's saying it's a new firearm  
12 for his house.

13 Q. Number 10?

14 A. I believe this is the same one.

15 Q. The same one?

16 A. Yeah.

17 MR. MARSHALL: I'll remove 10. It's a duplicate.

18 Q. Number 11?

19 A. Another photo from Instagram. This time it's depicting a  
20 THC concentrate. Typically we call that "wax" or "dab."

21 Q. Number 12?

22 A. Number 12 is a close-up of Mr. Gamez's face, stating "Pack  
23 is always in" with the "m-box" emoji again. "Doing good  
24 numbers. Just let me know your tag." That means that -- the  
25 pack is referring to the pack of the pills that he's selling,

1 saying he has them in stock, and that he's doing good numbers,  
2 as in doing good prices. So to hit him up if you'd like to  
3 purchase.

4 Q. Again, well after your investigation began?

5 A. Yes.

6 Q. Number 13?

7 A. Another picture of THC concentrates, stating "Always got  
8 it tap" with the "m-box." So he's now marketing the THC  
9 concentrates as well as the oxycodones and that he has both for  
10 sale.

11 Q. Number 14?

12 A. Number 14, a picture of a marijuana water bong, a device  
13 used for smoking marijuana. "Always got it, tap in," with  
14 another M-circle emoji, indicating the oxycodone tablets.

15 Q. And, finally, Number 15?

16 A. Fifteen appears he's inside of a vehicle. It says "Packs  
17 landed right now," again, indicating that he just re-upped on  
18 his narcotics. "Catch me in traffic." "Tap in tomorrow unless  
19 it's \$100-plus because I'm pulling up on my fam tonight."

20 Typically, that means hit me now while I'm driving  
21 around. I can drop off to you, make deliveries to you,  
22 essentially, and that he can't later because he'll be with his  
23 family.

24 MR. MARSHALL: I'm going to move to admit 1 through 9  
25 and 11 through 15.

1 THE COURT: Any objection?

2 MS. HERRING: Your Honor, I don't -- I believe the  
3 Court can consider them, but we're not going to concede that  
4 they came from -- I'm not going to concede that they came from  
5 my client's phone. But I think the Court can consider them as  
6 part of something the detective has reviewed.

7 THE COURT: Thank you, Ms. Herring. The exhibits are  
8 admitted.

9 Q. (BY MR. MARSHALL) And how did you establish they came from  
10 the defendant's phone?

11 A. Those were posted from his social media. They were  
12 captured from his posts. So whatever device he was using that  
13 was capable of taking those pictures and posting them is what  
14 we were capturing.

15 Q. And you identified those posts as belonging to this  
16 defendant?

17 A. Yes, sir. He was both seen physically in the posts, as  
18 well as the name was concurrent -- the same one that we were  
19 using by ourselves and confidential informants to communicate  
20 with Mr. Gamez.

21 Q. Correct me if I'm wrong, but when you interviewed him  
22 after he was arrested and advised of his constitutional rights,  
23 it was at your station and it was videotaped, correct?

24 A. Correct. At the Leander Police Department.

25 Q. Talked to him about the death and the other witnesses?

1 A. Correct.

2 Q. Did he appear to take any of this seriously?

3 A. No. There was a lot of "It wasn't me. I facilitated. It  
4 was somebody else." However, he would not provide us the  
5 information of this other person that he spoke of. We  
6 attempted that conversation for approximately an hour, maybe a  
7 little longer. Still nothing. At which point we told him we  
8 were done with the investigation and a patrol officer was  
9 brought in to place him in handcuffs.

10 Q. Did you take a standard photo of him as you were  
11 interviewing him?

12 A. Yes. We attempted to take a few photos, but Mr. Gamez  
13 kept smiling during the photos. So that was kind of the best  
14 one we were able to get.

15 Q. I'm showing you Government's Exhibit 16. Is that one of  
16 those photos?

17 A. Yes. That was after the interview and the officer was  
18 taking him into custody for transport to the marshals.

19 Q. Does that pretty much capture his affect during the  
20 interview?

21 A. Yes, sir.

22 MR. MARSHALL: Move to admit 16, Your Honor.

23 THE COURT: Any objection?

24 MS. HERRING: Your Honor, I don't have an objection  
25 to the photo.

1 THE COURT: Okay. Thank you.

2 MS. HERRING: The conclusion being drawn, again, we  
3 don't concede.

4 THE COURT: Thank you once again, Ms. Herring.

5 Exhibit 16 of the government is also admitted into  
6 evidence.

7 Q. (BY MR. MARSHALL) After the interview was completed, what  
8 did you-all do?

9 A. Mr. Gamez was transported to -- downtown here to the  
10 marshal custody, where he was released. We then processed the  
11 evidence and began putting everything together.

12 Q. Were you able to connect this defendant's distribution  
13 activities to any other overdoses.

14 A. Loosely, yes. We had our -- Llano PD on 11-23 of '21 had  
15 an individual overdose. He was stabilized by EMS. They  
16 Narcan-ed him on-scene and were able to counteract the opioid  
17 effects and transport him to the hospital. Detective David  
18 Wilson from Leander responded to speak with this individual.  
19 He asked him where the pills came from, and he stated an  
20 individual he knows as Juan Soria. No further cooperation did  
21 he wish to give other than the name, and he was subsequently  
22 left at the hospital for treatment.

23 Q. Still working on that one?

24 A. Yes.

25 Q. Any others?

1 A. And then Monday of this week, another confidential  
2 informant informed us that in April of 2021 he purchased  
3 oxycodone tablets from Mr. Gamez, overdosed, was taken to the  
4 hospital, Cedar Park Regional, by his friends. He was treated,  
5 and he did inform me that there was no police or EMS that  
6 responded to that call. And we're in the process of trying to  
7 get that subpoenaed or some kind of records from Cedar Park  
8 Regional.

9 MR. MARSHALL: I'll pass the witness.

10 THE COURT: Thank you. Ms. Herring?

11 MS. HERRING: Yes, Your Honor. Thank you.

12 **CROSS-EXAMINATION**

13 **BY MS. HERRING:**

14 Q. So, Detective Fallon, I want to go back to when you began  
15 investigating my client, Mr. Soria Gamez. Was it Leander  
16 Police Department that was the first agency to come across his  
17 name?

18 A. Yes, ma'am.

19 Q. And that was back in, I think you said, March of 2021?

20 A. Yes. March '19th of '21.

21 Q. And that was in response to a death investigation of  
22 Cameron Stewart?

23 A. Yes, ma'am.

24 Q. And Leander Police Department interviewed Mr. Stewart's  
25 mother, right?

1 A. Correct.

2 Q. And she is the person who identified Mr. Soria Gamez as  
3 the possible source of the Percocets, right?

4 A. To -- from what Leander's report says, yes, ma'am.

5 Q. And you weren't part of the investigation at that time?

6 A. We were informed afterward. We worked very closely with  
7 Leander, as they're our neighboring city. So typically when  
8 something like this goes off, we come and work it conjointly.

9 Q. So that was the first time Mr. Soria Gamez's name  
10 surfaced, was over a year ago or about a year ago?

11 A. Yes, ma'am.

12 Q. And Leander PD or any other law enforcement agency did not  
13 arrest him back in March of 2021?

14 A. No, ma'am. There wasn't enough evidence to get an arrest  
15 warrant at that time.

16 Q. Then we -- I think you kind of fast-forward to August of  
17 2021, when -- is it Mr. Roe, Tucker Roe, meets with a Leander  
18 sergeant?

19 A. Yes. August 3rd of '21. Yes, ma'am.

20 Q. And you said -- I think the words you used were Mr. Roe  
21 came forward. What does that mean?

22 A. So, according to Sergeant [unintelligible] with Leander,  
23 Mr. Roe was friends with Mr. Stewart. After Mr. Stewart passed  
24 away, Mr. Roe went to Leander Police Department in an attempt  
25 to try to cooperate or help law enforcement in dealing with



1 Mr. Gamez.

2 Q. And, to your knowledge, there was no other reason for his  
3 cooperation? No monetary benefit to him?

4 A. I do not know. Typically, at least speaking personally,  
5 whenever we have someone that approaches us, we do do monetary.  
6 But Mr. Roe was not working off any charges or anything like  
7 that.

8 Q. And you're not sure whether he was receiving --

9 A. Yeah. I can't speak to that.

10 Q. -- a monetary benefit?

11 A. Yes, ma'am.

12 Q. I think he -- one of the reports says that he, Mr. Roe,  
13 identified Mr. Soria Gamez from a driver's license photo. Is  
14 that your recollection?

15 A. According to the Leander report, yes, ma'am.

16 Q. And then before Mr. Roe was able to really assist Leander  
17 PD, he overdoses, right?

18 A. Yes, ma'am.

19 Q. And at that point no law enforcement agency arrests  
20 Mr. Soria Gamez?

21 A. No, ma'am. Again, we need to build a case and find  
22 evidence of this being correct other than just word of mouth.

23 Q. In November 2021, Leander PD responded to another overdose  
24 call; is that right?

25 A. Is that the November 23rd?

1 Q. I believe so. Mr. McFall?

2 A. Yes.

3 Q. And that was the person you mentioned overdosed but was  
4 stabilized?

5 A. Yes. Was transported to the hospital, and then detectives  
6 went and spoke with him there. And he's the one that gave  
7 Mr. Gamez's name.

8 Q. But then refused to cooperate further?

9 A. Correct.

10 Q. And Mr. Soria Gamez was not arrested following that  
11 incident?

12 A. Again, we didn't have anything to charge him with at that  
13 point.

14 Q. But you had three what you believe to be overdoses from  
15 drugs that you believe Mr. Soria Gamez had sold?

16 A. Correct. So at that point we had reasonable suspicion but  
17 not probable cause to complete an arrest affidavit for  
18 Mr. Gamez.

19 Q. In all of these reported overdoses that you believe are  
20 linked to Mr. Soria Gamez, the young men believed they were  
21 purchasing Percocets, right?

22 A. It varies. I can't speak to exactly what they knew they  
23 were purchasing. Percocets on the streets is a street term for  
24 oxycodone. Almost every investigation that we deal with it,  
25 they refer to them as "percs," "yerks," "Percocets," "blues,"

1 "blue jeans," "blueberries." There's a million names for it.

2 Percocet and oxycodone are different. Percocets are  
3 generic versions of the oxycodone tablet, obviously. But  
4 neither one of them contain fentanyl. And in these cases and  
5 these autopsies and in these drug findings, it showed the  
6 presence of fentanyl in it. So neither one of them were  
7 obviously what they were marketed as.

8 Q. But the families or the parents, for example, that Leander  
9 police interviewed thought their sons were struggling with  
10 addiction to Percocets or oxycodone?

11 A. I can't speak to that. I didn't interview or speak with  
12 any of the family. That was Leander that spoke with them. And  
13 then Detective Castillo is the one that spoke to Mr. Roe's  
14 family the night of that overdose.

15 Q. You haven't reviewed those reports?

16 A. I read the reports, yes, ma'am. I just haven't spoke to  
17 them personally.

18 Q. Do you have any recollection of the families saying they  
19 thought their sons were out there trying to purchase fentanyl?

20 A. No. Not fentanyl, no.

21 Q. And I think you just explained it, but Percocet is just a  
22 brand name for oxycodone, right?

23 A. Yes, ma'am.

24 Q. And Percocets/oxycodone is a prescription pain reliever?

25 A. Correct.

1 Q. It's an opioid?

2 A. Yes.

3 Q. So if someone goes out to buy Percocet or is prescribed  
4 Percocet, it doesn't mean that they are seeking to buy  
5 fentanyl?

6 A. No. In some cases it is. I've had individuals who  
7 personally seek out fentanyl-laced oxycodone because that  
8 addiction is actually stronger than the ones that are found in  
9 Percocets and oxycodone.

10 Q. Traditional pharmaceutical oxycodone doesn't contain  
11 fentanyl, right?

12 A. Correct. It does not.

13 Q. And the DEA has been finding, and I think that's why  
14 you're on this specialized task force, that pressed pills being  
15 marketed and marked as M30s, as oxycodone, are actually laced  
16 with fentanyl?

17 A. Correct.

18 Q. So those are fraudulent Percocets?

19 A. Yes.

20 Q. Someone selling what looks like a Percocet or an oxycodone  
21 may not know that it's laced with fentanyl, right?

22 A. Correct. That happens often. That's why there's such a  
23 big push in the media to try to put that out there for  
24 individuals, and it's very hard to come across that not being  
25 shown somewhere at some point nowadays.

1 Q. So there's nothing on the pill itself that indicates that  
2 it's been laced with fentanyl?

3 A. Sometimes you can tell a little bit, not quite for  
4 fentanyl. But there's a difference between a pharmaceutical  
5 manufactured tablet and one that's made in a pill press.

6 During the years of these investigations, they've  
7 progressively gotten better, to look more like an actual  
8 pharmaceutical tablet. But some of lower-end pills, or ones  
9 that aren't made or pressed as well, do have very noticeable  
10 deficiencies, such as the sizing being off, the stamps not  
11 matching, the texture is falling apart, tastes have been  
12 described as being different between the two. Things of that  
13 nature.

14 Q. And that's something you've learned because you've worked  
15 a lot of these cases at this point?

16 A. Yes. A lot of it has either been taught to me from  
17 first-hand experience or from cooperating defendants, users,  
18 people who have those addiction problems, because we obviously  
19 ask those questions on how you know, and they can tell the  
20 difference between the pills on which ones they like and which  
21 ones they don't, et cetera.

22 Q. I think you testified that, on many of these controlled  
23 buys, the lab results are still pending; is that correct?

24 A. Correct. I believe there was six buys or seven buys.  
25 We've gotten lab results back on two of them thus far.

1 Q. But in all of the controlled buys, you do I think what you  
2 call a field test; is that --

3 A. Yes.

4 Q. -- is that correct?

5 A. Correct.

6 Q. And can you explain the purpose of doing a field test.

7 A. So at first when we first start these investigations, on  
8 the presumptive field test we're pretty confident as leading to  
9 the lab results being the same. We've noticed that, since this  
10 fentanyl has kind of become a newer thing in the community and  
11 with law enforcement I guess the past few years, some test kits  
12 work different than others. We've tried multiple, different  
13 kinds and ways to do it. Some work better than others.

14           So, as a standard practice, we always field test it  
15 to see and then, obviously, to know how we package it while  
16 we're working with it. There is a different transition between  
17 certain pills that are -- have higher concentrations of  
18 fentanyl will react quicker, so we know to be more careful with  
19 those pills. Some show inconclusive results, where the color  
20 doesn't change and then we get them back from the laboratory  
21 saying it is fentanyl or carfentanyl, which does not show up  
22 inside of the fentanyl reactant kits. So it varies across the  
23 board.

24 Q. And how do you document the field tests that you do?

25 A. Typically they're done either on body camera. I know

1 Leander does most of theirs inside of the evidence room, which  
2 is monitored with a camera inside of there. And then sometimes  
3 it's just documented on our reports.

4 Q. And so if it's recorded like -- it sounds like Leander  
5 Police Department would have those maintained as part of the  
6 evidence in this case?

7 A. Yes. I believe everything inside their evidence room is  
8 recorded. I don't want to speak 100 percent to that because I  
9 don't work for them, but it's reasonable to believe it should  
10 be, yes.

11 Q. Now, you had some of the pills purchased in the controlled  
12 buys that did not test positive for fentanyl when you did the  
13 field test in this case?

14 A. Correct. We had a couple that did not and a couple that  
15 did.

16 Q. And was it the -- I think it was a March purchases that  
17 did not test positive for fentanyl in the field?

18 A. I don't recall 100 percent off the top of my head which  
19 ones. I do know there was a couple. There was also a couple  
20 that Leander PD tested. I've been working these cases a lot  
21 longer than they have and have kind of figured out a better  
22 way, I guess, if that makes sense, to test these.

23 A lot of times, like, when we first started these  
24 cases, we would just take a piece of the pill and drop it in  
25 there and would almost never get a positive result because the

1 binding agent actually covers the power on the side of the  
2 pill, so the chemicals inside of the reactant kit do not  
3 penetrate that to make a reaction, which is what Leander was  
4 doing at the first part of this.

5           And when I was having them pop positive and they were  
6 not, I explained that it's better to crush the pills up in a  
7 powder on a piece of paper, put the powder inside of the test  
8 kit to allow the full penetration from the chemicals inside the  
9 reactant.

10 Q.   Do you remember being involved in the field testing on the  
11 March 10th purchase? I believe that was you and Detective  
12 Castillo from Cedar Park?

13 A.   I do not -- was it a Leander buy or our buy?

14 Q.   Leander PD and Detective Fallon and Detective Castillo.

15 A.   Yes. We went with them on some. But the initial report,  
16 if it was theirs, we were only present for the March 6th test,  
17 at least myself. And then the two tests that we did I was  
18 present for. I was not there for the other ones, no, ma'am.

19 Q.   You yourself were present at at least one where no  
20 fentanyl came back on the field test?

21 A.   Yes.

22 Q.   A few just brief additional questions about Tucker Roe's  
23 involvement with Leander Police Department, if you know.

24           As someone cooperating with Leander police  
25 department, would part of his agreement have been to not



1 continue to use illegal controlled substances?

2 A. I know in ours it is, yes, ma'am.

3 Q. Is that a standard provision --

4 A. I hope so.

5 Q. -- for someone who is cooperating?

6 A. I haven't read theirs, so I really don't know. So I don't  
7 want to speak to how they do their work. Again, they are a  
8 newer unit; they've only been around a couple of years. But,  
9 typically, yes, that's what we see most of the time.

10 Q. Do you know if the Percocets that he's alleged to have  
11 purchased from Mr. Soria Gamez on the 23rd of September that  
12 resulted in the -- his death, was that part of a controlled buy  
13 that he was instructed to do from Leander Police Department?

14 A. They never conducted a controlled buy with Mr. Roe.

15 Q. You've -- it sounds like, from a summary that I received  
16 this morning that I think you prepared, you have reviewed the  
17 autopsy report --

18 A. Yes, ma'am.

19 Q. -- in this case?

20 It was conducted by Dr. Chundru; is that right?

21 A. Yeah. I'm not sure how to pronounce it, but yes, ma'am.

22 Q. Was that autopsy conducted at the direction of law  
23 enforcement? Do you know?

24 A. Typically it is the JP or the on-call judge that orders  
25 the autopsies.

1 Q. And you mentioned that fentanyl and kratom were found in  
2 his system?

3 A. Correct.

4 Q. So I haven't seen that report, so I'm just going to ask  
5 you what you can remember from it.

6 A. It's got the -- the actual name of kratom, which I can't  
7 pronounce. It's like Mitragyna I believe is how it's  
8 pronounced, but it's kratom.

9 Q. And there's a mention in your summary. It says kratom is  
10 used for medicinal purposes. You're aware that the FDA has not  
11 approved kratom for any medicinal use in the United States,  
12 right?

13 A. No, it has not. The FDA typically doesn't approve a lot  
14 of things like that, such as workout supplements, proteins, and  
15 things like that. They're very rarely FDA approved for the  
16 reasons they can't control what's going into them.

17 Q. And you're aware that kratom is an addictive substance as  
18 well?

19 A. It can be. Yes, ma'am.

20 Q. And the DEA in fact lists kratom on its website as a drug  
21 and chemical of concern for the DEA even though it's not a  
22 controlled substance?

23 A. Yes, ma'am. It is growing in more and more popularity.  
24 Again, a lot of times we see it with people who have opiate  
25 addiction problems as a way to try to wean themselves off

1 without purchasing illegal drugs. That's the most common  
2 practice of how we see that, at least nowadays.

3 Q. And the DEA has initiatives to prosecute people who ship  
4 kratom across state lines, right, because it's not legal to  
5 ship it?

6 A. I know they -- I don't know the final on that. I know  
7 they have talked about it, but I'm not well versed enough on  
8 what their deciding factors of that is, so ...

9 Q. You mentioned the amount of kratom found in Mr. Roe's  
10 system. Do you recall or did you see in the report the amount  
11 of fentanyl?

12 A. It was 4.5 nanograms, I believe. I did not write that  
13 down, so I don't remember exactly. But I'm pretty confident  
14 saying that's what it was.

15 Q. And I think you had testified on direct that there was,  
16 but for the fentanyl, there was no reason to believe that  
17 Mr. Roe should have overdosed and died. That's not a medical  
18 opinion you're offering, right?

19 A. No. So the medical -- or the autopsy only shows  
20 guidelines on that, on what they believe is fatal or not, but  
21 they don't offer a specific quote, if that makes sense.

22 Q. And you're not a doctor, right?

23 A. I am not a doctor. No, ma'am.

24 Q. And you're not aware of Tucker Roe's medical history other  
25 than what you've seen in the autopsy?

1 A. Other than what I've seen, no, ma'am.

2 Q. And you don't know his specific history of drug use and  
3 drug addiction?

4 A. Not specifics. No, ma'am. Nothing that was prior to the  
5 investigations.

6 Q. Aside from the confidential informants you've talked  
7 about, or the individuals who were cooperating with Leander,  
8 you worked with one specific cooperating source; is that right?

9 A. So there was multiple used in this investigation. Leander  
10 Police Department had one, we he had one, and then I had  
11 another one come forward, but he did not directly participate  
12 in this investigation. He just mentioned that while we were  
13 talking about something else.

14 Q. So I want to ask about the individual that you  
15 specifically worked with, as in Cedar Park worked with, leaving  
16 aside the Leander cooperators for a minute.

17 That individual was cooperating to work off pending  
18 criminal charges, right?

19 A. He was not. No, ma'am.

20 Q. He had pending criminal charges. I mean, were you aware  
21 of that?

22 A. We had no charges on the individual we were using.

23 Q. He hadn't been arrested by Cedar Park on a warrant out of  
24 a different county?

25 A. That, I don't -- I'm not aware of that.

1 Q. Are you aware of that individual's criminal history?

2 A. Yes.

3 Q. So he had a criminal history?

4 A. Yes. He had a criminal history. Yes, ma'am.

5 Q. You're just not aware if he had pending charges?

6 A. I don't know the specifics of his criminal history. No,  
7 ma'am.

8 Q. Were you aware he was out on bond?

9 A. Yes.

10 Q. So an individual who had criminal history had pending  
11 charges because he's out on bond?

12 A. Right. Just not through Cedar Park.

13 Q. Was someone you felt was trustworthy enough to work with?

14 A. Yes, ma'am. So we spoke with the agency that was  
15 responsible for that. Very rarely is it that we have any  
16 cooperating informants or sources of any nature that don't have  
17 some kind of criminal history. We take that into consideration  
18 on a case-by-case value. But, again, very rarely does people  
19 who want to cooperate with law enforcement have an absolutely  
20 zero or clean record.

21 Q. Were you aware he had been arrested while out on bond,  
22 released on bond again, and re-arrested?

23 A. I don't know the specifics of that. I just know he was  
24 out on bond because we did speak to that agency prior to having  
25 him cooperate with us. But the circumstances involving it,

1 I -- I didn't have anything to do with those.

2 Q. You found him to be a trustworthy cooperator?

3 A. So, typically, whenever we sign up an informant or  
4 confidential source of any type, we have them do what's called  
5 a qualification buy -- typically it's involving somebody  
6 completely different than our target -- to see if they are  
7 credible and reliable and can do what they're said to be doing.  
8 And through the course of this investigation, they proved to  
9 be.

10 Q. But, in your experience, it's possible for someone with  
11 pending criminal charges to be out on bond and to work with law  
12 enforcement and show up when they're supposed to?

13 A. Yes, ma'am. Anything's possible.

14 Q. You did review Mr. Soria Gamez's criminal history as part  
15 of this investigation, right?

16 A. Yes.

17 Q. You're aware that he has none?

18 A. Correct.

19 Q. Never been arrested before?

20 A. Correct.

21 Q. Jumping to the social media posts that you described for  
22 the Court, I just want to make sure I understand the source of  
23 those photos? Those photos didn't come from Mr. Soria Gamez's  
24 physical phone?

25 A. No, ma'am.

1 Q. Were they screenshots taken by third parties or by law  
2 enforcement?

3 A. It's an accumulation of everything. So some were from  
4 confidential informants, some was from officers acting in  
5 undercover capacities, things of that nature.

6 Q. Did you take any of the photos that you just reviewed?

7 A. I personally did not. No, ma'am. That was other members  
8 of my team.

9 Q. And when I -- I just saw them briefly before the Court --  
10 before they were presented to the Court. But they didn't  
11 appear to have dates on them.

12 A. No. Typically the stories like that, when they're posted  
13 on social media, don't contain the date. They just have the  
14 hours and the time of when they're posted.

15 Q. So you don't know sitting there today after your review  
16 when those were made, when those snaps were published?

17 A. Just from when we started monitoring the social media  
18 until the conclusion of when he was arrested. So it would be  
19 in that time frame. But the actual specifics, no, ma'am.

20 Q. So sometime during the course of that year --

21 A. Yes.

22 Q. -- that this investigation has been going on?

23 A. And we used markers, like some of them that were taken  
24 after this incident or after this incident, so we can kind of  
25 narrow down the time frame. But it is between those -- the

1 months of the investigation to now.

2 Q. Have you as part of this investigation either gotten a  
3 warrant for or subpoenaed Instagram to get the records directly  
4 from Instagram?

5 A. Instagram, no. I have in the past. Instagram and  
6 Snapchat are very hard to get attainable information from.  
7 They also -- their time frame is very extended, which is why we  
8 went the Cash App route to get specific information instead.  
9 But, in my experience as an investigator, a lot of those don't  
10 provide much information, if any at all, and the time frame is  
11 never consistent.

12 Q. The firearms that appear in some of the photos, I think  
13 you said none of those firearms were found in the apartment  
14 when the search warrant was executed?

15 A. Correct. Just a magazine.

16 Q. The warrant -- were you present on the day the warrant was  
17 executed?

18 A. Yes, ma'am.

19 Q. And that was a warrant where law enforcement knocked and  
20 announced and then --

21 A. Yes, ma'am.

22 Q. -- asked for the door to be opened?

23 A. Yes, ma'am.

24 Q. And it was Mr. Soria Gamez himself who opened the door,  
25 right?



1 A. Correct.

2 Q. And I believe the report says he was detained without  
3 incident. Is that your recollection?

4 A. Yeah. So we had a plain clothes officer posing as a  
5 maintenance knock on the door, said it was maintenance. And  
6 then once he answered the door, he hesitated for a brief  
7 moment, which is understandable. There's a lot of people at  
8 the door. And then he exited, was placed in handcuffs, and we  
9 cleared the rest of the house.

10 Q. So he didn't take off, run, any of that?

11 A. He did not. He was asked if there was anybody else inside  
12 of the apartment. He told us no. And then when we cleared the  
13 apartment, we found the other two individuals. That was a  
14 little bit of a surprise.

15 Q. So there was the -- I think you said was it the roommate,  
16 Devin Gaona?

17 A. Yes. At least he'd been staying there within the past  
18 month or so, or a few weeks, according to Leander detectives.  
19 Mr. Gamez said in the interview, I believe, he was paying  
20 partial to stay there. But I don't -- we never had any direct  
21 involvings with him or dealings with him other than that day.  
22 Or I didn't.

23 Q. Was he present during any of the controlled buys, to your  
24 knowledge?

25 A. To my knowledge, I don't know. Leander Police Department

1 is the one that had access to the camera that was set up in the  
2 hallway. They did know there was another individual, multiple  
3 individuals, that would come and go from that apartment quite  
4 frequently, as well as females. But not all of them were  
5 identified.

6 Q. And on the day the warrant was executed, there was also  
7 Katelyn Matthews and another young man; is that right?

8 A. I believe there was just Mr. Gamez, one other man, and  
9 then the female. That was it. So it was just three people.

10 Q. Three people total?

11 A. Yes, ma'am.

12 Q. And those other two individuals were released?

13 A. Yes. They were said to be staying in the guest room, and  
14 the only thing located in there, I believe, was marijuana. And  
15 they were both released on the scene.

16 Q. Were they interviewed by law enforcement?

17 A. So after the execution of the search warrant, myself, my  
18 sergeant, and two other DEA agents transported Mr. Gamez to the  
19 Leander Police Department while Leander and some of the other  
20 individuals conducted everything at the residence. So I'm  
21 unaware what took place there while we were gone. But, while I  
22 was there, they were not talked to or questioned.

23 Q. And now just -- I know you went through what was found --  
24 some of what was found or seized from the execution of that  
25 warrant. One of the reports -- I can't remember if you

1 mentioned it -- said that -- I'm not going to be able to  
2 pronounce this -- buprenorphine tablets were found in the home?

3 A. Yes. That's a prescription medication. I don't recall  
4 what it's for, but it is a non -- or a dangerous drug, not a  
5 controlled substance, I believe.

6 Q. It's used to treat opioid addiction, right?

7 A. Yes. That's right. Sorry. Yes, ma'am. It's like  
8 Suboxone, I believe. Kind of something like that, yeah.

9 Q. So -- and I have not seen the interview of my client yet,  
10 but did investigators ask him as part of that interview if he  
11 struggles with addiction to Percocets?

12 A. He mentioned it at one point that he does use and that he  
13 would sell to help fund that on occasion. But, again, during  
14 the interview, the story changed quite a bit from that to, no,  
15 I just -- middle deals. No, I didn't -- you know, it was very  
16 inconsistent. So at the point of the investigation we didn't  
17 really have much to know other than the fact that a lot of the  
18 information we were getting through the interview was false.

19 Q. Is it -- this is a -- I don't know the exact ages of these  
20 individuals, but is it generally correct that these individuals  
21 that were working with Leander and Cedar Park, my client, these  
22 are 18-, 19-, 20-year-olds? They're very young -- young  
23 adults?

24 A. It varies quite a bit. Some that cooperate are in theirs  
25 40s, 50s, 60s.

1 Q. Well, I'm talking about in this investigation.

2 A. In this case, yeah, I want to say the oldest was around  
3 that age, 18 to 20. Something like that.

4 Q. In the home when the warrant was executed, you did not  
5 find a pill press or pill press equipment; is that right?

6 A. Not to my knowledge. No, ma'am.

7 Q. And nothing in your investigation had suggested that  
8 Mr. Soria Gamez is himself pressing or manufacturing pills?

9 A. No, ma'am. No.

10 MS. HERRING: No further questions. Thank you.

11 THE COURT: Thank you, Ms. Herring.

12 Mr. Marshall?

13 **REDIRECT EXAMINATION**

14 **BY MR. MARSHALL:**

15 Q. Just for the record, Mr. Gamez isn't a pharmacist, is he?

16 A. No, sir.

17 Q. Nobody was saying, Hey, I've got a prescription. Can you  
18 give me some of these pills?

19 A. No, sir.

20 Q. These are all illicit drug sales?

21 A. Yes.

22 MR. MARSHALL: Pass the witness.

23 THE COURT: Thank you.

24 MS. HERRING: Nothing further, Your Honor. Thank  
25 you.

1 THE COURT: Okay. Thank you. You may be excused,  
2 Detective Fallon.

3 THE WITNESS: Thank you, ma'am.

4 MR. MARSHALL: No further witnesses, Your Honor.

5 THE COURT: Thank you. So we can proceed to -- I can  
6 issue a finding at this time on the preliminary hearing unless  
7 you want to proceed directly to the detention portion?

8 MR. MARSHALL: We're pretty much going to offer the  
9 same evidence for the detention portion.

10 THE COURT: Yes, sir. I assumed that Detective  
11 Fallon's testimony would be considered for detention as well.

12 MR. MARSHALL: Yes, ma'am.

13 MS. HERRING: And that's fine with me, Your Honor.  
14 We have no witnesses to present.

15 THE COURT: Okay. For the detention?

16 MS. HERRING: Correct.

17 THE COURT: Okay. Thank you. Then I'll just make a  
18 finding at this time that the testimony of Agent Fallon and the  
19 evidence presented by the government has been credible and  
20 reliable, and there's sufficient credible and reliable evidence  
21 to establish that the defendant, Juan Ignacio Soria Gamez, was  
22 in possession with intent to distribute of a controlled  
23 substance on at least February 22nd of this year and March 1st  
24 of this year, as alleged in the complaint.

25 And this evidence is sufficient in nature to

1 establish that there's probable cause to believe that the  
2 alleged charge in the complaint has been committed. That is  
3 the offense of possession with intent to distribute a  
4 controlled substance, in violation of Title 21 of United States  
5 Code Section 841(a)(1), and that the defendant, Mr. Soria  
6 Gamez, has committed it. Therefore, he'll be held to answer in  
7 district court.

8           So we can proceed on to further proceedings at this  
9 time with, I think, the government has anything further with  
10 regard to the detention hearing or we'll turn to the defense.

11           MR. MARSHALL: No further evidence.

12           THE COURT: Thank you, sir.

13           Ms. Herring?

14           MS. HERRING: We have no witnesses, Your Honor. I  
15 was just hoping to make argument on the detention point.

16           THE COURT: Certainly. We can proceed to argument.  
17 Thank you.

18           MR. MARSHALL: Okay. The thing that's most  
19 disturbing about this particular case is the fact that this  
20 defendant knew what he was doing. He knew he was distributing  
21 controlled substance, whether he knew it was fentanyl or not,  
22 that led to the deaths of people, that led to overdoses in this  
23 particular case. There is certainly probable cause to believe  
24 that.

25           The testimony of the agent with regard to the first

1 two deaths, the fact the defendant went to the first decedent's  
2 funeral, and then posted on Instagram saying "RIP" with a  
3 handful of M30s is, at best, callous. That aside, if he had  
4 stopped right there, maybe we'd agree. But the fact that he  
5 went on and another individual bought dope from this man and  
6 died, then he continued to sell dope that's dangerous and can  
7 kill people -- two other overdoses are linked to it besides two  
8 deaths -- the man presents a danger to the community. The man  
9 demonstrates that he has absolutely horrid judgment, if not  
10 sociopathic judgment.

11           Excuse me. My voice is going.

12           With regard to that, look at some of the posts he  
13 made after the deaths. "The feds are on my ass, but I'm still  
14 making money." My God. Buy after buy after buy, consistent  
15 buys. And to answer one question, we didn't have the evidence  
16 from the August death or the later death for the second  
17 decedent. We had to get it all subpoenaed and we had to put  
18 all the evidence together, we had to get the social media, we  
19 had to get the Cash App transactions. We didn't get those  
20 until January. That's when we could put it all together.  
21 After that came in, we could pretty well tie it up and we  
22 started doing the controlled buys, two of which come back for  
23 fentanyl.

24           The defendant was selling an incredibly dangerous  
25 drug. Despite the fact that he knew it was an incredibly

1 dangerous drug, he still kept selling. Despite the fact that  
2 he thought the feds were on him, he kept selling. With all  
3 that, he's playing with guns. Don't even know where the guns  
4 are.

5           Now, it indicates that the burden has shifted because  
6 of the evidence in the pretrial services report, but the  
7 pretrial services report indicates some employment. The poll  
8 cameras and the surveillance by the officers indicates no  
9 employment. They never saw him coming and going to a regular  
10 job. There's no evidence or documentation before the Court  
11 that indicates he was coming and going to a regular job.

12           The evidence before the Court indicates this man's  
13 regular job was selling fentanyl that kills people. And, by  
14 the way, it doesn't matter if he knew if it was fentanyl or  
15 not. If we can trace that substance from that defendant to a  
16 decedent or to an overdose, you're guilty regardless of what's  
17 in it.

18           With that evidence and with all the evidence before  
19 the Court, it's obvious this man has incredibly poor judgment.  
20 Government's 16, the photo of him after he's been confronted  
21 with all this, is direct evidence of his attitude toward this  
22 entire thing, towards the fact that he causes injuries and  
23 deaths.

24           With that evidence, there's no set of conditions you  
25 can set that you can believe he'll follow, because he



1 demonstrates incredibly, remarkably horrible judgment.

2 Thank you.

3 THE COURT: Thank you, Mr. Marshall.

4 Ms. Herring?

5 MS. HERRING: Yes, Your Honor. The government's  
6 argument for detention I think is largely based on speculation  
7 about what is in Mr. Soria Gamez's mind and how his limited  
8 view of his actions reflect his feelings, the assumption that  
9 smiling after arrest is -- makes him heartless or reflects his  
10 attitude about what's going on instead of it being the nervous  
11 reaction of a 19-year-old who has never been arrested before.

12 I believe the presumption has been rebutted in this  
13 case on the pretrial service's report alone, and the government  
14 has not met its burden to show that he is a risk of flight. I  
15 don't think the government is even arguing risk of flight in  
16 this case. I address that in my memo that I filed with the  
17 Court, but I believe there's nothing to suggest and, indeed,  
18 evidence has been put on today by the government in the  
19 testimony of the officer who noted that he opened the door, he  
20 did not flee, and he was arrested without incident. So I --  
21 I'm not going to address flight further unless the Court has  
22 questions on that point specifically.

23 But the government has also not met its burden to  
24 show that he's a danger to the community by clear and  
25 convincing evidence in this case. Not only does the Court have

1 the pretrial services report recommending release, Mr. Gamez's  
2 mother is here in the courtroom today in the back. She is  
3 willing to act as a third-party custodian. She works for a  
4 state agency. She has held that job for a long time. She's a  
5 responsible adult and lives in a home, and he can live in that  
6 home. There are no firearms in that home. She's brought his  
7 passport to turn over to the court today.

8 I've also provided the Court with a letter reflecting  
9 that he has employment and, indeed, has an employment option  
10 with a construction company. That's someone who can pick him  
11 up. His father also works for that company. And, in speaking  
12 with his mother, I can proffer this but if the Court has  
13 questions for her, their plan is that he will be with his  
14 father when he's working and with his mother when he's at home.  
15 And so he will have direct supervision of a parent at all times  
16 if he's released on bond in this case.

17 I also learned that Mr. Gamez has an older brother  
18 who's in the military. He's on leave for a month and is coming  
19 home, and the family believes having the older brother present  
20 will be another positive, motivating factor for Mr. Gamez to  
21 follow any conditions the Court wishes to set.

22 Mr. Gamez, again, as I've presented proof to the  
23 court, has been a student at Texas State. He has the option to  
24 return to college, and he wants to do that. His plan would be  
25 to do that if he's released on conditions as a way to fill his

1 time. The only reason he took a pause from his studies was to  
2 gather finances to continue them. But he, you know, has done  
3 one year at Texas State and wants to keep pursuing his -- his  
4 education.

5 He's someone with no criminal history. He's very  
6 young. He's never had an interaction with law enforcement  
7 prior to this case. He's never had to have a lawyer before.  
8 You know, in my time meeting with him so far, he's spent a  
9 whole weekend detained with individuals with much more  
10 significant criminal history. I think he is taking this quite  
11 seriously at this point. And we've had many discussions, and I  
12 know he's had discussions with his mother, about what it means  
13 to be released and how serious this case is. And he -- he  
14 understands that.

15 I understand that there are very sad and disturbing  
16 facts as part of this investigation; that individuals have  
17 died; that young men like Mr. Gamez, people he knew, have  
18 passed away; and that the government, the DEA, rightly, is  
19 pursuing what is a very dangerous drug in our community.

20 But I think the case law that I've referenced in the  
21 memo suggests that just the continued risk of drug trafficking,  
22 just because this is a serious case, under the Bail Reform Act  
23 is not a reason to detain Mr. Gamez. He is presumed innocent  
24 at this point. He has a right to fight this case, to work with  
25 his attorney, and there's no reason that he can't do that at

1 home with conditions that the Court deems appropriate.

2 And so I would ask the Court to adopt the conditions  
3 in the pretrial -- or recommended in the pretrial services  
4 report. I'm happy to speak to individual ones specifically, if  
5 the Court has other ideas, but I believe this is a case in  
6 which conditions can be set and we would ask for release.

7 THE COURT: Thank you, Ms. Herring, and I'm sure you  
8 have other things you want to say, Mr. Marshall, but I do not  
9 have the detention motion in front of me and I believe the  
10 government did check the box for flight risk. And, as  
11 Ms. Herring points out, we have been focusing on danger to the  
12 community today. And is the government pursuing detention on  
13 the basis of flight risk, because that is something I'd like to  
14 explore?

15 MR. MARSHALL: On both bases, Your Honor. The  
16 defendant has ties with Mexico. He's got a father from Mexico.  
17 I think he's a grandparent. He admits he's traveled to Mexico.  
18 And, again, the same cases Ms. Herring cites to the Court  
19 indicate, while continuing activity may not be an issue, it's  
20 the judgment of the defendant and the behavior of the defendant  
21 when confronted with what they've done or had been doing that's  
22 relevant to the Court.

23 In other words, is he making good choices? Is he  
24 able to comply with conditions? As I indicated earlier, I  
25 think the answer is no. He's impulsive. He's reckless. He

1 doesn't care. That's the demonstration. I'm not trying to  
2 predict what's in his mind right now. I have no clue. No one  
3 here does. But the best predictor of future behavior is past  
4 behavior, and his past behavior over the past year is  
5 abhorrent, absolutely abhorrent, and that cannot be trusted by  
6 a court on someone for which conditions should be set and a  
7 bond for either complying and sticking around or presenting a  
8 danger to the community. He knew he presented a danger to the  
9 community. He kept doing it.

10 THE COURT: Thank you, Mr. Marshall.

11 And, Ms. Herring, since the government, I believe,  
12 did -- did check the box and is proceeding on risk of flight as  
13 well, that is a significant concern to me that I'd like to hear  
14 more about, given the defendant's ties to Mexico. And his  
15 father's not here today; is that correct?

16 MS. HERRING: His father is not here, Your Honor. So  
17 I quoted a case for the Court that states that mere family ties  
18 to Mexico are not sufficient evidence of risk of flight. I  
19 think we live in a state where a large percentage of people in  
20 our state and citizens of our state have family in Mexico.  
21 We're in Texas. He until recently was a minor child and  
22 visited extended family in Mexico with his parents.

23 We haven't heard specifics about trips. I -- I am  
24 unaware of the last time he took a trip. I don't think law  
25 enforcement pursued that as part of its investigation. We

1 didn't hear any testimony about trips to Mexico in the last  
2 year. But I think that turning over the passport to the Court,  
3 which his mother is prepared to do today, would address any --  
4 any concern the Court has about flight.

5 THE COURT: Well, it doesn't address all of my  
6 concern, because it's not just that the defendant has family in  
7 Mexico and has visited them there. His father's a citizen of  
8 Mexico. So what I'm hearing is that he would be splitting --  
9 he would be with his mom at night and with his dad during the  
10 day. But I -- I don't have -- have any indication that that's,  
11 you know, going to keep him here.

12 I mean, there is nothing that I can do if he decides  
13 to abscond to Mexico, whether it be location monitoring or  
14 anything like that. I can't -- I can't control that for  
15 somebody who has these significant ties to Mexico.

16 MS. HERRING: Well, I -- I don't agree that they're  
17 significant, because we have not been presented -- the Court  
18 has not been given any evidence about frequency of travel to  
19 Mexico, any need for him to be in Mexico. I don't believe he  
20 has a need to be in Mexico.

21 THE COURT: Well, he's apparently going to be  
22 splitting his time with his two parents, one of whom is a  
23 citizen of Mexico.

24 MS. HERRING: That was a -- that is a proposal to the  
25 Court. If the Court is not comfortable with that and wants to

1 prohibit a 19-year-old from seeing his father based on his  
2 father's immigration status, the Court can certainly set that  
3 as a condition. I think that would be something I've never  
4 seen -- seen before. But, you know, I'm -- I don't believe  
5 that my client should be detained because his father is a  
6 citizen of Mexico or because his father's immigration status is  
7 a question for the Court.

8           My client is a United States citizen. He will turn  
9 over his passport to the Court. He has no need to be in  
10 Mexico. And he can sign, and his mother can sign as  
11 third-party custodian, that he will not be traveling outside of  
12 any restriction that the Court sets.

13           I think, depending on the Court's concern, he could  
14 be placed on a monitor. Those do provide -- I've had many a  
15 client on an ankle monitor -- provide immediate alerts if the  
16 person is outside the zone where the monitor is set. So I  
17 think that would be a way to provide added assurance that he's  
18 not traveling outside of the county. The Court could also  
19 place him on home detention, which would mean he would be at  
20 his mother's home absent employment, approved by pretrial  
21 services. If pretrial is not comfortable with him working with  
22 his father or family, I think that would be another condition  
23 the Court could set that would address concerns about flight.

24           THE COURT: Well, certainly. I mean, with all due  
25 respect, Ms. Herring, at no time did I say that a 19-year-old

1 defendant should not see his father. What I'm looking for is a  
2 plan that will keep this defendant from both leaving, fleeing  
3 the country, which he has ample ability to do, and keep him  
4 from being a danger to the community.

5           And what we've got is his mom here, who I appreciate  
6 you being here, ma'am, and being willing to serve as a  
7 custodian, but we've heard a lot about the defendant possibly  
8 having addiction issues which fueled the alleged crimes. And  
9 the last time he tried to get treatment, she got him out almost  
10 immediately.

11           So I'm not sure that the -- that the mom alone --  
12 ma'am, and I'm sorry, I don't have your name in front of me --  
13 is able to control and keep safe both this defendant, to keep  
14 him here and to control his -- the safety, his risk to the  
15 community. So those are the two things I'm looking at, is  
16 today, is there any sort of plan in place that's going to both  
17 prevent the defendant from being a flight risk and also  
18 alleviate the risk to the community. And that's what I'm  
19 hearing gaps in. That's what I'm having concerns with.

20           MS. HERRING: And I think I am struggling with  
21 addressing the specific concern. Because I think many of the  
22 recommended conditions restrict travel and movement when the  
23 Court sets conditions. So I think standard conditions, like  
24 restricting him to the typical five-county area or a smaller  
25 county area would be one way to address that, that he would



1 comply with, and that his mother and father would comply with.  
2 Turning over the passport would be another standard condition  
3 that he and his mother are willing to comply with.

4           If the Court wishes to place restrictions on  
5 employment or on home detention, I think that would be a plan  
6 that he's willing to comply with, a monitor. I think these are  
7 all things the Court can choose from. And Mr. Gamez and his  
8 mother, who I've spoken to, are willing to accept any condition  
9 the Court is comfortable with for his release.

10           So if there's -- I don't know how to offer a more  
11 specific plan without knowing what conditions the Court feels  
12 are inadequate that it has at its disposal at this juncture.

13           THE COURT: Well, specifically, the proposal to be  
14 spending his days with his father at work is one aspect of it,  
15 if that's the plan.

16           MS. HERRING: May I have just a moment?

17           THE COURT: Certainly. And it's Ms. Martinez,  
18 correct? Thank you. I have -- now I do have your name in  
19 front of me.

20           But hold on. Let Ms. Herring answer.

21           MS. HERRING: Your Honor, Mr. Gamez has conveyed to  
22 me that, if the Court is not comfortable with the proposed  
23 employment, he can seek employment at H-E-B. He can look for a  
24 different job. He doesn't need to work with his father. He's  
25 happy to look for other employment that would alleviate that

1 concern.

2 THE COURT: Okay. Thank you, Ms. Herring.

3 Mr. Marshall had something that he wanted to add, but  
4 I'm certainly willing to hear from Ms. Herring further as well.

5 MR. MARSHALL: No. If there's anything else, go  
6 ahead.

7 THE COURT: Okay.

8 MR. MARSHALL: But, again, we come back to it's all  
9 based on this man's decision-making. Do you trust that? And  
10 based on the evidence before the Court, no. The answer is no.  
11 He makes horrible, bad, irrational judgments even when he has  
12 facts presented to him.

13 You know, we all have standard conditions we live by.  
14 One of them is don't violate the law. One of the first things  
15 you can look at under 3153 is what's the status of the case?  
16 Is it a good case? a bad case? a strong case? a weak case?  
17 This is a strong case. It's a strong case that indicates he  
18 caused death, at least probable cause, right now. That's 20 to  
19 life.

20 Unfortunately, we're looking at a bunch of 17-, 18-,  
21 19-, and 20-year-olds that the Court has seen on frequent bases  
22 that are engaged in this activity. It's unfortunate, but  
23 that's what's going on, and they're making the same kind of  
24 horrible decisions this man's made.

25 There's nothing before the Court, there's no

1 condition you can set, that's going to guarantee safety of the  
2 community or the fact that he won't flee. Ankle monitors are  
3 great. They're a great way to see what happened after the  
4 fact. Taking away somebody's passport is great. But if that's  
5 all it took, we wouldn't have a crisis on the border. It all  
6 comes down to: Will this man keep his word, and what has his  
7 past performance shown?

8 THE COURT: Thank you, Mr. Marshall.

9 Ms. Herring, is there anything further you'd like to  
10 address?

11 MS. HERRING: Yes, Your Honor. The Bail Reform Act  
12 doesn't require the Court to guarantee the safety of the  
13 community. The Court has to set conditions or can set  
14 conditions to reasonably assure the safety of the community.  
15 And based on that standard, I believe the Court, and I would  
16 ask the Court, to set conditions.

17 The other thing that has been intervening since the  
18 alleged behavior and where we are today is the fact of this  
19 arrest, an arrest by, as Detective Fallon testified, many  
20 officers showing up at his door. Mr. Gamez at 19 has never  
21 experienced this before. He's never had contact with law  
22 enforcement before.

23 And I believe, and it's our position, that that --  
24 that he should be given the opportunity now with conditions in  
25 place to respond to what is a very serious case. And he should

1 at least have the opportunity to show the Court that he can  
2 comply with conditions and allow him to continue to work with  
3 me as we pursue resolution of this case going forward.

4 And that's all I have, Your Honor.

5 THE COURT: Okay. Thank you, Ms. Herring. So the  
6 court will take a recess. I'll ask Ms. Stubbs from pretrial to  
7 meet with me in my chambers. We'll take a recess and be back  
8 in a few minutes.

9 (Recess from 3:15 to 3:37 p.m.)

10 THE COURT: I'd like to start out by thanking counsel  
11 for their very able arguments today and thank Ms. Martinez for  
12 being here to support her son. And I'm going to begin --  
13 before I announce my ruling, I'm going to let you know what  
14 principles the court is guided by today.

15 And first is that the defendant is entitled to a  
16 presumption of innocence at all times. Under the Bail Reform  
17 Act, pretrial detention is an exceptional step, and a defendant  
18 must be released before trial unless I find that no combination  
19 of conditions, or conditions standing alone, exist that will  
20 reasonably assure the appearance of the defendant, if the  
21 government seeks detention based on flight, which it would have  
22 to prove by a preponderance of the evidence, or if I find that  
23 no condition or combination of conditions exist that will  
24 reasonably assure the safety of any other person in the  
25 community, which the government would have to show by clear and

1 convincing evidence if it seeks detention on that basis. And  
2 the government seeks detention based on both here.

3           As Ms. Herring ably pointed out, I wanted to  
4 emphasize that the standard is reasonably assure, not  
5 guarantee. The Act requires that the least restrictive  
6 conditions be imposed that are necessary to provide the  
7 reasonable assurances. And if I can't find any condition or  
8 combination of conditions that will reasonably appear *[sic]* the  
9 appearance of the defendant nor the safety of the persons in  
10 community, then I'm required by the Act to order the defendant  
11 held in custody.

12           And as I believe Mr. Marshall mentioned during the  
13 argument, there's a rebuttable presumption that applies in this  
14 case. I find that it does apply; that detention is needed  
15 because the crime charged is a narcotics offense for which the  
16 maximum penalty is 10 years or more. I find that the defendant  
17 has not offered sufficient evidence to rebut the presumption  
18 based on the four factors that I'm required to consider.

19           I've considered all of the evidence on these factors  
20 and the recommendation of pretrial services, which in this case  
21 is release. But the factors are the nature and circumstances  
22 of the alleged offense. And here, as I mentioned, I mean, this  
23 case is a -- is a tragedy all around. As Mr. Marshall argued,  
24 the weight of the evidence against the defendant is strong.

25           The history and characteristics of the defendant is

1 the third factor. And, in particular, I'm influenced by the  
2 evidence concerns the defendant's past conduct, particularly  
3 over the past year.

4 And, finally, the nature and seriousness of the  
5 danger to others or to the -- or to the community, and that  
6 factor I find to be dispositive here. We've heard evidence  
7 of -- of two deaths and two overdoses, and the nature and  
8 seriousness of the danger to the community is quite high,  
9 therefore.

10 So based on the evidence, I find that the government  
11 has met its burden to show that detention is required based on  
12 danger to others in the community, and I'll be entering a  
13 written order of detention to that effect.

14 Is there anything further that the court needs to  
15 address at this time, Mr. Marshall?

16 MR. MARSHALL: Not from the government.

17 THE COURT: Thank you, sir.

18 And Ms. Herring?

19 MS. HERRING: No, Your Honor. Nothing further.

20 THE COURT: Thank you once again, and the court's  
21 adjourned.

22 (Proceedings concluded at 3:40 p.m.)  
23  
24  
25

**REPORTER'S CERTIFICATE**

I, Arlinda Rodriguez, do hereby certify that the foregoing was transcribed from an electronic recording made at the time of the aforesaid proceedings and is a correct transcript, to the best of my ability, made from the proceedings in the above-entitled matter, and that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

/S/ Arlinda Rodriguez

April 14, 2022

ARLINDA RODRIGUEZ

DATE